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The Treasury
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PARKES ACT 2600

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Submission in response to discussion paper “Tax Deductible Gift Recipient Reform Opportunities”

Background

Landcare Tasmania is incorporated under the *Associations Incorporations Act 1964 (Tas)*. We have operated since 1994 and are the oldest State-based peak Landcare body in Australia. We are a charity registered with the ACNC and a DGR organisation operating the Tasmanian Landcare fund under the provisions of the Register of Environmental Organisations.

Landcare Tasmania is a member-based organisation comprising 200 ‘care’ groups across Tasmania, plus individual members. Our most recent data indicates that in the 2015 calendar year our groups comprised around 3,300 members and volunteers, undertook 2,200 separate Landcare events and activities, and performed around 90,000 hours of voluntary community environment work for the year. That’s about \$3.3M of work, representing a return on investment of 16-22 times for every dollar we receive from the Tasmanian and Commonwealth governments. It’s also the equivalent work of 50 full time positions, which we support with just 2.6 FTE.

Our Tasmanian Landcare Fund receives private donations which are used, in accordance with applicable law, to further the purpose and objects of the Association. The bulk of funds distributed from the TLF go directly to support on ground projects. However we also use monies from the TLF to fund education and capacity-building programs, so that the overall impact of our activities can be greater than would be achieved through funding on-ground works alone. In 2017 our disbursement of funds from the TLF will pass \$0.5M.

Against this background we offer the following responses to selected questions contained in the discussion paper.



Issue 2: Ensuring that DGRs understand their obligations, for example in respect of advocacy

It is unclear from the discussion paper what the limits to advocacy currently are, or what options are being considered. In our case we have a Constitutional obligation to advocate for community Landcare, as part of our role as a representative peak body. Our view is that the grey area between different types of advocacy is likely to be large and difficult to circumscribe. For example, when would advocacy for a better funding deal for community Landcare cross into another, unspecified area that would fall foul of some new and unspecified rules.

Question 4. Should the ACNC require additional information from all registered charities about their advocacy activities?

No. The discussion paper speaks about the regulatory burden for charities but acting on this would impose an additional regulatory burden, which would be difficult to report against. Any concerns in this area could be better focused on whether a charity is operating in accordance with its purposes and objectives, which can be achieved through existing risk assessment and audit approaches by the ACNC.

Question 5. Is the Annual Information Statement the appropriate vehicle for collecting this information?

The annual information statement is an appropriate vehicle for the ACNC to collect key data about a charities operations, but for reasons outlined above it should not be extended into collecting information about advocacy. This question pre-supposes there is a need to collect additional information.

Question 6. What is the best way to collect the information without imposing significant additional reporting burden?

As above, this question presupposes there is a need to collect additional information.

Issue 4. Complexity and red tape created by the public fund requirements

Landcare Tasmania welcomes any move that will reduce complexity and red-tape for public fund requirements, so long as they ensure that public confidence in donating to funds is maintained. We agree that the same definition of Responsible Persons should apply to both the ACNC registered charity's governing body and any other governance arrangements needed to meet Public Fund requirement.



Issue 5. DGRs endorsed in perpetuity, without regular and systemic review

We note with some concern the sentence under discussion point 53:

“Currently, a DGR is subject to minimal governance unless it is an ACNC registered charity.”

This statement is misleading for two reasons. First, it presupposes that DGRs have no governance other than that required to comply with DGR status. Second, since 92% of DGRs are ACNC registered charities, the number of DGRs to which the comment may apply is small.

Question 9. What are stakeholders’ views on the introduction of a formal rolling review program and the proposals to require DGRs to make annual certifications? Are there other approaches that could be considered?

Landcare Tasmania does not support this approach. It is one thing for the discussion paper to talk about the regulatory burden then propose adding yet another burden to it. There are also resource implications for either the ACNC or ATO in having to conduct reviews. A smarter approach would be to have a targeted program of reviews that could be triggered by a range of factors, e.g. change of purpose in ACNC governing documents, risk assessment, stratified sampling of DGR types, complaints. Put simply, a charity which has not changed its nature and is operating otherwise in accordance with requirements should not be subject to additional regulatory burden.

Question 10. What are stakeholders’ views on who should be reviewed in the first instance? What should be considered when determining this?

This is answered above by the approach suggested.

Parliamentary inquiry into the Register of Environmental Organisations

Question 12. Stakeholders’ views are sought on requiring environmental organisations to commit no less than 25 per cent of their annual expenditure from their public fund to environmental remediation, and whether a higher limit, such as 50 per cent, should be considered? In particular, what are the potential benefits and the potential regulatory burden? How could the proposal be implemented to minimise the regulatory burden?

Landcare Tasmania has operated its DGR fund in a way that would readily meet the requirements to invest in environmental remediation. However, we do not support the mandating of ANY minimum percentage of fund expenditure on remediation for a number of reasons:

- Whilst over time the vast majority of our DGR-sourced funds have been expended on on-ground works, it is not inconceivable that we might decide that greater environmental benefit and on ground outcomes might be achieved by, for example, investing heavily in education and capacity building to equip the community to undertake environmental remediation. In this instance the proposed rules would generate a perverse outcome on the



ground. The potential for this type of situation to occur across the environmental DGR space, especially where organisations have a range of environmental objectives, is enormous.

- The proposal is difficult to circumscribe – what is environmental remediation? It is also laden by the assumption that environmental works should only be about remediation rather than about prevention of damage and degradation. It is far more cost effective to prevent environmental degradation from occurring than it is to remedy damage after the event. To use an example that applies to our operations, erecting a fence around an important patch of remnant vegetation is a positive environmental outcome as it may avert a future threat, but would be unlikely to be considered remediation.
- Ensuring that environmental DGRs are operating in accordance with their charters and achieving environmental outcomes can be better addressed by a number of our recommendations above, in particular those in relation to Questions 4 and 9.

An overall comment

Some of the issues raised in the discussion paper (e.g. advocacy, environmental remediation, certification) can be achieved by better harmonisation of DGR status with ACNC registration and its associated requirements. However, some of the recommended/implied reforms raised in the discussion paper unfortunately fail to recognise the existing powers of the ACNC, particularly as it seeks to strengthen governance within charities and ensure compliance, to achieve this.